$1,050. After finding that he could sell for more, he induced the complainant to agree that he should have all he could get over $1,000, representing that the property could not be sold for $1,050. The principal brought suit in equity, to recover the whole price from the agent. *Held*, that the complainant can recover the $50 lost by changing the original contract, but that the agent is entitled to his commissions under that agreement. *Ballinger* v. *Wilson* (1902), — N. J. Eq. —, 53 Atl. Rep. 488.

The court decided for the complainant on the ground that any contract concerning the subject-matter, made with the principal after the agency is created, must be made in good faith on the part of the agent, and with knowledge on the part of the principal of all material facts known to the agent. The rule applied is, in substance, that the agent must be loyal to his trust, a principle universally recognized as fixed in the policy of the law. *People* v. *Township Board*, 11 Mich. 222; *Davis* v. *Hamlin*, 108 Ill. 39, 48 Am. Rep. 541. Where, however, the facts are fully disclosed to the principal, the agent may, in good faith, deal with him, although the transaction will be subjected to the closest scrutiny of the court. *Rochester* v. *Levering*, 104 Ind. 562; 23 Cent. Law Jour. 130. Contrary to the ruling in the principal case, that the complainant should not recover the full price received it has been held, that by fraud or wrong-doing, the agent forfeits all right to compensation. *McKinley* v. *Williams*, 74 Fed. Rep. 94; *Humphrey* v. *Eddy Transportation Co.*, 107 Mich. 163, 65 N. W. 13.

BANKRUPTCY—PREFERENCES.—A preferential payment was made by a debtor to one of his creditors within four months prior to former's bankruptcy. *Held*, not void under sec. 60b and sec. 67e of the act of 1898, though made with fraudulent intent on debtor's part, if it be accepted by the creditor without knowledge that a preference was intended. *Sherman* v. *Luckhardt* (1902), — Kan. —, 70 Pac. Rep. 702.

Section 60b in effect provides that, regardless of the intent of the debtor, the transfer is valid if the creditor had no reasonable cause to believe that a preference was intended; while section 67e provides that regardless of the knowledge of the transferee, the transfer shall be void if the debtor intended to hinder, delay or defraud his creditors. By these sections two tests, each diametrically opposed to the other, are provided to determine the validity of transfers made by an insolvent. In the principal case the question arises: which test shall be applied when there is an intention on the part of the debtor to hinder, delay or defraud the creditors and at the same time an absence of reasonable cause to induce the belief in the creditor that a preference was intended? The judges were divided on this question, four constituting the majority and three the minority. The majority opinion applies sec. 60b, making the knowledge of the creditor the test, and disregards sec. 67e because, as they hold, it does not apply to the case of transfers made to creditors. The dissenting opinion applies the other provision, making the intent of the debtor the test of validity, but the opinion makes no attempt to explain away the other provision and in fact makes no reference to it. The question is one of real difficulty and one upon which there is very little authority. In *Pirie* v. *Trust Co.*, 182 U. S. 438, 21 Sup. Ct. 906, the court, in argument, says that the "purpose of sec. 67e is to prohibit the disposition of property by the debtor other than to creditors in fraud of the act." This supports the prevailing opinion in the principal case. On the other hand, in a note to *In re McLam* 3 A. B. R. 245, (S. C. 97 Fed. Rep. 922) the editor says, "to invalidate a transfer, the transferee must either have had at the time, reasonable cause to believe that the transferrer intended to give a preference or there must have been an intent, on the part of the transferrer, to

hinder, delay or defraud." This disjunctive construction of the two provisions supports the minority view. Any construction which gives effect to every portion of the act is preferable to one which renders any portion nugatory and the majority opinion seems therefore to be well considered.

BANKS AND BANKING—SUBAGENT—COLLECTION.—Plaintiff took a draft on a St. Louis bank for $1000 to the South Side Savings Bank in Milwaukee, and left it for collection, indorsing it in blank. Plaintiff had no account with the Milwaukee bank, and was told to return in a few days for the money. The Milwaukee bank sent the draft with others to defendant bank in Chicago. The latter had no notice that the former held the draft for collection only. Defendant was the regular Chicago correspondent of the Milwaukee bank, and they kept a mutual account with each other. Defendant collected the draft through its St. Louis agent, and on July 22, 1893, being apprised of the collection of the draft, placed the amount thereof to the credit of the Milwaukee bank. At the time, the account of the latter with the defendant was overdrawn to the amount of $4724.06. Shortly afterwards defendant honored a draft of the Milwaukee bank for $10,000. Later in the day it was informed of the insolvency of the Milwaukee bank, which did not open its doors for business on that day. Plaintiff went to the Milwaukee bank to get the proceeds of the draft, but found the doors closed, and has never received payment of the draft. Before bringing this action, she demanded of defendant the proceeds of the draft, and was refused payment. She now brings assumpsit for the amount of draft with interest. *Held*, that the Milwaukee bank was the prima facie owner of the draft, and that defendant had a right to apply the proceeds thereof to the reduction of the overdraft of the Milwaukee bank before learning of its insolvency. *American Exchange National Bank* v. *Theummler* (1902), 195 Ill. 90, 58 L. R. A. 51.

There is considerable conflict in the decisions as to whether or not negotiable paper indorsed in blank, may be retained by the subagent to be applied upon the account of the one that transmitted the paper to it. The courts of Massachusetts, Colorado, and Illinois, and the United States courts, hold that the subagent may retain such paper and apply it to the reduction of the pre-existing indebtedness of the remitter, if such subagent had no notice of its correspondent's want of title. *Bank of the Metropolis* v. *New England Bank*, 42 U. S. 1 How. 234, 11 L. ed. 115; s. c. 47 U. S. 6 How. 212, 12 L. ed. 409; *Wood* v. *Bank*, 129 Mass. 358; *Wyman* v. *Bank*, 5 Colo. 30, 40 Amer. Rep. 133; *Vickery* v. *State Savings Ass'n*, 21 Fed. Rep. 773; *Morris* v. *Preston*, 93 Ill. 215; *Doffelt* v. *Bank*, 175 Ill. 432, 51 N. E. 753; *National Bank* v. *Armstrong*, 148 U. S. 50, 37 L. ed. 363, 13 Sup. Ct. Rep. 533. Mr. Chief Justice Taney, in *Bank of the Metropolis* v. *New England Bank*, *supra*, a case exactly parallel with the present one, said: "If an advance of money had been made upon this paper to the Commonwealth Bank, the right to retain for that amount would hardly be disputed. We do not perceive any difference in principle between an advance of money and a balance suffered to remain upon the faith of these mutual dealings." *Sweeney* v. *Easter*, 68 U. S. 1 Wall. 166, 17 L. ed. 681, is sometimes cited as opposed to this doctrine, but the decision in that case turned upon the effect, as notice, of the words "for collection," indorsed upon the negotiable paper. The other line of authorities holds that a bank to which the paper is sent as subagent can acquire no better title to it than its correspondent had, unless it makes future advances or extends existing credit upon the faith of the paper so received. The courts supporting this view are those of New York, Pennsylvania, Missouri, Connecticut and Maryland. *Lawrence* v. *Stonington Bank*, 6 Conn. 521, *McBride* v. *Farmers' Bank*, 26 N. Y. 450; *Stark* v. *Bank*, 41